

SKILLED NURSING FACILITY QUALITY WORKGROUP MEETING SUMMARY

Thursday, November 6, 2008 9:30 AM – 12:30 PM
University of Southern California State Capitol Center
1800 I Street, Sacramento, CA 95814

Attending Stakeholder Workgroup Members:

Deborah Doctor, Disability Rights California
Mike Connors, California Association of Nursing Home Reform
Geneva Carroll, Sacramento Ombudsman Former Nursing Home
Resident)
Nancy Hall, Senior Advocates
**Gary Passmore, Congress of CA Seniors
**Nina Weiler, AARP
**Betty Perry, Older Women's League
Jim Gomez-CEO CAHF
Daryl Nixon-Director of Reimbursement of CAHF
Jocelyn Montgomery Director of Quality-CAHF
Lori Costa- Regulatory Consultant Aging Services of California
Michael Torgan - Country Villa Health Services
David Farrell, SnF Management
Tamara Rasberry, SEIU
Dionne Jimenez, SEIU (by phone)
Deb Roth, SEIU
Mary Mundy, SEIU
Richard Thomason, SEIU
Corrine Eldridge, SEIU

** Represents rotating members of Stakeholder Group – final
Stakeholder Group Members to be determined.

State Representatives and Facilitator:

Toby Douglas, Department of Health Care Services (DHCS)
Monique Parrish, Facilitator

I. Welcome and Introductions

The first Skilled Nursing Facility Quality Workgroup Meeting opened with introductions and a review of the agenda (see attached). Workgroup members and the public attended the meeting in-person and through a conference call-in line. The focus of this first meeting was to establish workgroup protocol, processes, and a schedule of meetings. To familiarize all attendees with the legislation however, a brief overview of Assembly Bill (AB) 1629 (Statutes of 2004) and AB 1183 (Health Trailer Bill of 2008) was presented following

introductions.

The public (in-person and on the phone) was invited to comment or pose questions following each agenda item. The workgroup process is supported by a grant from the California HealthCare Foundation, based in Oakland, California.

II. AB 1629 Overview and 2008 Budget Act Requirements

Toby Douglas, Deputy Director, Health Care Policy, California Department of Health Care Services, presented a PowerPoint overview (with handout) of AB 1629 and AB 1183 requirements. His presentation detailed pre-AB 1629 Medical reimbursement rates for skilled nursing facilities, as well as the introduction of AB 1629. The presentation also addressed the intent of AB 1629, the key points of the Quality Assurance Fee (QAF), the legislation's five cost categories, and the cost build-up. The overview concluded with a description of the maximum annual rate increases (rate caps per Statute) and then discussed AB 1183 and the charge of the AB 1629 workgroup.

Mr. Douglas indicated that his department would address all questions posed by both the workgroup and community regarding AB 1629, but for the purposes of this first workgroup meeting would limit the question and answer period so workgroup members would have an opportunity to complete the rest of the meeting agenda. Below are a few of the questions Mr. Douglas was asked, and his responses:

Q: How much money has been collected by the QAF?

A: Approximately, \$270 million.

Q: What are the rates right now?

A: The rates have not yet been released, but the average rate for 2007-08 was \$185, with some range.

Q: In 2011 (when this legislation is scheduled to sunset), will rates revert back to the old system?

A: A State Plan Amendment was submitted as an alternative, but it could be the State chooses a different approach.

One workgroup member commented that the workgroup's responsibility was complicated, highlighting concern for the now compressed timeframe under the Statute (the workgroup is currently expected to submit a list of recommendations by March 1, 2009). Mr. Douglas recognized this concern and encouraged workgroup members to do what they can within the timeframe permitted. A discussion followed regarding any opportunity, with California HealthCare Foundation funding, to continue the work of the workgroup after the March 1, 2009 deadline. An extension of the group's efforts is open for discussion beyond the March timeline; however, the workgroup was again encouraged to dedicate themselves to their charge under Statute.

Additional questions were raised about the public's access to and involvement with the AB 1629 rate setting methodology recommendations. The facilitator and Mr. Douglas affirmed that public recommendations would be welcome throughout the process. It was also recommended by an attendee that a website be constructed to provide transparency in the process and to give workgroup and community members an opportunity to provide input. This recommendation was accepted and DHCS agreed to follow-up with establishing this site.

III. Review (if available) of findings from the California HealthCare Foundation-sponsored September 16, 2008 meeting, "Improving Quality in Nursing Homes: Measuring, Reporting and Paying for Quality"

Mr. Douglas reported that at this time the graphic illustration notes from the September 16, 2008 meeting, "Improving Quality in Nursing Homes: Measuring, Reporting and Paying for Quality" have not been finalized. Chris Perrone, Senior Program Officer from the California HealthCare Foundation, which supported the meeting, indicated that the final notes would be forthcoming. Mr. Douglas elected to follow up with the findings at the next scheduled workgroup meeting.

IV. Workgroup Protocol

To establish ground rules for workgroup interaction, members were invited to share their perspectives and rules for comportment and protocol. The following is a list of proposed protocol elements to help guide the interaction between members:

- Focus on evidence-based (fact-based) quantitative and qualitative information
- Stay on point
- Inclusion rather than exclusion
- Maintain a big-picture perspective
- First establish principles and values rather than process
- Respect for each other

V. Workgroup Process

a. Review Bagley-Keene Open Meeting Act Procedures

Ms. Sharon Stevenson, J.D., Deputy Director, Office of Legal Services, DHCS, presented on the Bagley-Keene Open Meeting Act Procedures. Ms. Stevenson highlighted the purpose of the Act and through responses to member and public questions reviewed some of the Act's specific requirements.

Purpose: The Bagley-Keene Act was passed by the Legislature to ensure that when a body sits down to develop its consensus, there needs to be a seat at the table reserved for the public. (Government Code § 11120.) By reserving this place for the public, the Legislature has provided the public with the ability to monitor and participate in the decision-making process. If the body were permitted to meet in secret, the public's role in the decision-making process would be negated.

Questions/Answers:

Q: What is the law regarding numbers meeting outside of an open forum?

A: The Act expressly prohibits the use of direct communication, personal intermediaries, or technological devices that are employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body outside of an open meeting. (GC § 11122.5(b).) Typically, a serial meeting is a series of communications, each of which involves less than a quorum of the legislative body, but which taken as a whole involves a majority of the body's members. The serial-meeting provisions basically mean that what the body can not do as a group it can not do through serial communications by a quorum of its members.

Ms. Stevenson encouraged attendees to read the Act, which is available at (http://ag.ca.gov/publications/bagleykeene2004_ada.pdf) and to act prudently and reasonably with respect to intent of the law. While the quorum for the workgroup is 10 members, the three representative groups were advised to pursue group discussions without a quorum, and focus only on discussions that were casual in nature. This approach would prevent any group or collection of individuals from promoting a specific direction to the workgroup or circumventing the workgroup's open, transparent process. Ms. Stevenson also noted that she would research the viability of the consumer/advocate group's rotating membership, as it relates to Bagley-Keene and the intent of the workgroup under Statute.

Q: What is the Public Notice and Agenda requirements and how will it affect our process?

A: The notice and agenda provisions require bodies to send the notice of its meetings to persons who have requested it. (GC § 11125(a).) In addition, at least ten days prior to the meeting, bodies must prepare an agenda of all items to be discussed or acted upon at the meeting. (GC § 11125(b).) In practice, this usually translates to boards and commissions sending out the notice and agenda to all persons on their mailing lists. The notice needs to state the time and the place of the meeting and give the name, phone number and address of a contact person who can answer questions about the meeting and the agenda. (GC § 11125(a).)

Additionally, The agenda items should be drafted to provide interested lay persons with enough information to allow them to decide whether to attend the meeting or to participate in that particular agenda item. Bodies should not label topics as “discussion” or “action” items unless they intend to be bound by such descriptions. Bodies should not schedule items for consideration at particular times, unless they assure that the items will not be considered prior to the appointed time. The notice and agenda requirements apply to both open and closed meetings.

To assist all attendees with understanding the Bagely-Keene Open Meeting Act, copies of the Act will be made available for all workgroup members and the public at the next workgroup meeting on November 19, 2008.

b. Open discussion to identify acceptable processes and procedures for delivering AB 1629 rate setting methodology recommendations

The group was encouraged to brainstorm processes and procedures for AB 1629 rate setting methodology requirements. Mr. Douglas opened this item by reading language from AB 1183 describing the workgroup and the possible factors the workgroup might consider when developing their recommendations. One member asked Mr. Douglas if given the State’s financial situation, the workgroup’s recommendations should be made based on what is realistic and within state budget. Mr. Douglas noted the inherent challenges for the workgroup and the State at this time. He encouraged the group to be mindful of fiscal issues but also noted the Special Session would not change nursing home funding at this time. Additional questions focused on whether the process would involve other aspects of AB 1629, beyond the recommended factors presented in AB 1183, to include intersecting issues and factors. Mr. Douglas clarified that while the group could not change the specific construction of the QAF, the group could address factors other than the recommended 13 listed in AB 1183. As such, the group identified the following factors that may also be reviewed and considered by the workgroup as part of the process of developing recommendations:

- QAF revenue and workgroup recommendations
- Oversight functions of Licensing and Certification (L&C) – focus on quality and accessibility
- Access and discrimination

The group also expressed their preferences regarding the overall process of the workgroup. They recommended the following;

1. Maintain a neutral facilitator
2. No subgroups at this time due to time constraints and the need for an open process for everyone involved.

3. The workgroup would try to meet the minimum six times, as indicated in Statute.

To set the schedule of meetings, members identified the following six full-day workgroup meetings (10:15 a.m. – 3:15 p.m.).*

- **Wednesday, November 19, 2008 10:15 a.m. – 3:15 p.m**
- **Monday, November 24, 2008 10:15 a.m. – 3:15 p.m**
- **Monday, December 1, 2008 10:15 a.m. – 3:15 p.m**
- **Wednesday, December 17, 2008 10:15 a.m. – 3:15 p.m**
- **Monday, January 12, 2009 10:15 a.m. – 3:15 p.m**
- **Thursday, January 22, 2009 10:15 a.m. – 3:15 p.m**

*The location of all of these meetings with the exception of the January 22, 2009 meeting will be held at University of Southern California State Capitol Center 1800 I Street, Sacramento, CA 95814.

The meeting concluded with an agreement to use a strategic planning process at the next meeting, to address the purpose of the workgroup along with the specific objectives and related tasks necessary to help the workgroup meet its primary goal – **to develop AB 1629/rate setting methodology recommendations**. While some members recommended collecting data in advance of the next meeting, consensus on this issue indicated that it would be more productive to discuss which data to collect and review at the next meeting, ensuring an open process for discussion. To remain in compliance with the Bagley-Keene Open Meeting Act, the workgroup, with input from community members, developed the next meeting's agenda prior to the meeting's adjournment.

VI. Closing remarks, next steps, meeting evaluation

The facilitator summarized the meeting, highlighting the discussion focus and consensus regarding workgroup protocol, beginning processes, and meeting schedule. Attendees were also reminded to adhere to the Bagley-Keene Act.

VII. Adjournment

The meeting was formally adjourned at approximately 12:45 p.m. During the concluding segment, which involved agenda setting for the next meeting, a last opportunity for public input was unintentionally bypassed. This oversight was duly noted and future meetings will include measures to include community input throughout the agenda process.

The AB 1629 workgroup contact person, for questions, information, and recommendations, is facilitator Monique Parrish mparrish@lifecourse-strategies.com 925.254.0522.

SKILLED NURSING FACILITY QUALITY WORKGROUP AGENDA

Thursday, November 6, 2008 9:30 AM – 12:30 PM
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 1800 I Street, Sacramento, CA 95814

1.	Welcome and Introductions	9:30	Monique Parrish Facilitator
2.	AB 1629 Overview and 2008 Budget Act requirements	9:30 – 9:45	Toby Douglas DHCS
3.	Brief review (if available) of findings from the California HealthCare Foundation-sponsored September 16, 2008 meeting, “Improving Quality in Nursing Homes: Measuring, Reporting and Paying for Quality”	9:45-9:50	Toby Douglas
4.	Workgroup protocol <ul style="list-style-type: none"> • Identify principles for promoting and maintaining workgroup respect and civility • Establish ground rules 	9:50-10:50	Monique Parrish
5.	BREAK	10:50-11:00	
6.	Workgroup process <ul style="list-style-type: none"> • Review Bagley-Keene Open Meeting Act Procedures • Open discussion to identify acceptable processes and procedures for delivering AB 1629 ratesetting methodology recommendations 	11:00:12:15	Monique Parrish
7.	Skilled Nursing Facility Quality Workgroup meeting schedule	12:15 – 12:25	Monique Parrish
8.	Closing remarks, next steps, meeting evaluation	12:25-12:30	Monique Parrish
9.	Adjournment	12:30	Monique Parrish